

Congress of the United States

Washington, DC 20515

May 9, 2000

**The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street NW
Washington, DC 22054**

Dear Chairman Kennard,

This letter is intended as a public comment to Docket DA00-764 on the petition for preemption filed by the Lake Cedar Group, LLC (LCG) on the siting of broadcast facilities on Lookout Mountain near Denver, Colorado.

As you know, the Jefferson County Board of Commissioners denied an application by LCG to rezone land on Lookout Mountain from residential and agricultural zoning to planned development zoning in order to construct a telecommunications tower and support facilities.

The Jefferson County Board of Commissioners spent several months holding hearings, accepting public comments, and reviewing documentation submitted by all parties involved before arriving at their decision to deny this application. The State of Colorado has an appellate process in place for LCG to judicially appeal the Board's decision. LCG has utilized that process and will receive a decision on its appeal in the next several months.

The Colorado General Assembly recently passed Senate Joint Resolution 31, which supports the power of local government to make land-use decisions and supports the state judicial processes, as the legislature's public comment on this matter. We share the concerns of our state legislators and encourage the Federal Communications Commission to show deference to local government land use decision-making and our state's judicial processes.

The Telecommunications Act of 1996 provided directions to the FCC for implementing digital television. Under FCC rules developed in accordance with the Act, Denver metro area television stations were required to provide a digital signal by last November. We know that the federal mandate for digital television has no direct relationship to tower siting issues, which are primarily issues that should be decided locally. We also know that if the Jefferson County Board of Commissioners' decision is allowed to stand, the Denver television broadcasters are still bound by federal mandate to transmit digital television. Therefore, we support efforts by all interested parties to agree upon a solution that will take into account needs of area viewers as well as the interests of residents living near proposed sites.

Thank you for your consideration of these comments, and for conducting the Commission's deliberations in an open and public manner. We look forward to your response to our concerns.

Sincerely,

Tom Tamm

April Hylleberg

Samuel

Wayne Alford

Nash Udall

Diana Blotto

RECEIVED

MAY 19 2000

Megalie R. Sales
Secretary, Federal Communications Commission
445 12th St. SW
Washington, DC 20554

FCC MAIL ROOM

Kathleen T. McLean
Ramon G. McLean
21986 Panorama Drive
Golden, CO 80401-9451

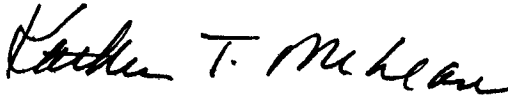
Re: DA 00-764
Lake Cedar Group Petition
"PETITION FOR EXPEDITED SPECIAL RELIEF AND DECLARATORY RULING"
to preempt Jefferson County Denial of Supertower

Dear Ms. Salas

We request that the Federal Communications Commission (FCC) take no action regarding the subject petition to preempt Jefferson County government. The County government acted within its jurisdiction regarding the Cedar Lake Group actions before the County Board of Commissioners. We believe the FCC has no jurisdiction to override the representative level of government in our County.

The impairment of our health caused by these towers more than outweighs the economic greed that the Lake Cedar Group seeks "special relief" for.

Sincerely,




Kathleen T. McLean



Ramon G. McLean

Certificate of Mailing:

I, , certify that on this 3rd of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr.
J. Stevens Rich Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

Cc:
Frank Hutfless
Jefferson County Attorney
Jefferson County Building
100 Jefferson County Parkway
Golden, Co. 80419 ✓

Deborah Carney
Attorney for C.A.R.E.
21789 Cabrini Blvd.
Golden, Co. 80401 ✓

✓ And the Colorado Delegation:
Senator Wayne Allard
513 Hart Senate Office Bldg.
Washington, D.C. 20510
Fax: 202-224-6471 ✓
Phone: 202-224-5941

✓ Peter Jacobson
Senator Wayne Allard's Office
7340 E. Caley Suite 215
Englewood, Co. 80111
Fax: 303-220-8126 ✓

✓ The Honorable Ben Nighthorse Campbell
U.S. Senate
380 Russell Senate Office Bldg
Washington, D.C. 20510
Fax: 202-224-1933 ✓

✓ Congressman Tom Tancredo
Colorado 6th District
1123 Longworth
Washington, D.C. 20515
FAX-(202) 225-7882 ✓

✓ Congressman Scott McInnis
Colorado 3rd District
320 Cannon House Office Building
Washington, D.C. 20515
Fax: 202-226-7840 ✓

✓ Congresswoman Diana DeGette
1339 Longworth
Washington, D.C. 20515
Fax: 202-225-5657 ✓

✓ Congressman Mark Udall
Colorado 2nd District
128 Cannon HOB
Washington, DC 20515
FAX: 202-226-7840 ✓

21770 Cabrini Blvd
Golden, CO 80401
May 5, 2000

RECEIVED

MAY 16 2000

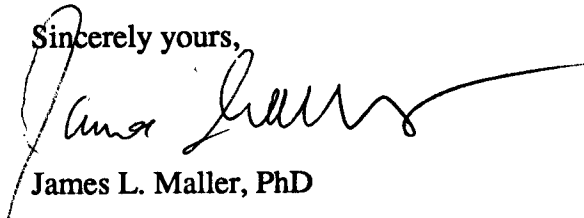
MAIL ROOM

Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr Secretary:

I am writing in regard to the application of the Lake Cedar Group petition for an expedited special relief and declaratory ruling by the FCC to overturn denial of their application for new multiuser digital antennas on the antenna farm on Lookout Mtn, Colorado, which is in a residential neighborhood of the Denver metro area. I live in the neighborhood not far from the existing antenna farm proposed for expansion, and I urge you to deny the Lake Cedar Group request to overturn the denial of their application by the county. The county decision was taken after months of hearings and many expert witnesses. It is perhaps important to remember here that the Lake Cedar Group has already been cited by the FCC for exceeding emission levels even with the existing antennas, and also that the State Dept of Health conducted a survey that found an statistically significant elevation of brain cancer incidence in families living near the existing towers. The new tower would increase microwave radiation several fold in the neighborhood, including in an elementary school. There are several alternative sites available that so far Lake Cedar group has not chosen to follow up. They believe they can get the federal government to overturn a carefully taken vote of the local community because they are mandated to offer digital TV to the metro area. However, they are not mandated to do it on Lookout Mtn, and there are other areas possible for such tower siting, as described in the materials before you. In addition to the legal question of whether you have the authority to overturn the action of elected officials in the county, it would be outrageous if the FCC issued a ruling that went against all the accumulated evidence and hearings and instead supported the financial interests of the Lake Cedar group. The tradition of local control of tower sitings should be preserved, and you should deny the application by the Lake Cedar group for expedited relief and a declaratory ruling in their favor.

Sincerely yours,



James L. Maller, PhD

CC: Rep Tom Tancredo
Sen Ben Nighthorse Campbell
Sen Wayne Allard

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12TH STREET, SW
WASHINGTON, D.C. 20554

DA 00-764

Newsmedia information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> [ftp.fcc.gov](ftp://ftp.fcc.gov)

Released: April 10, 2000

PETITION FOR EXPEDITED SPECIAL RELIEF AND DECLARATORY RULING

Lake Cedar Group LLC has filed a petition for expedited special relief and declaratory ruling, requesting that the Commission issue an Order preempting a resolution by the Board of County Commissioners of Jefferson County, Colorado, which denied their application to rezone certain land owned by members of the group to permit construction of a multi-user antenna tower to accommodate the new digital television antennas required of the group's members. (Resolution No. CC99-427, issued on August 3, 1999.) Initial comments in opposition have been filed by the County of Jefferson, Colorado and by the Canyon Area Residents for the Environment. Comments in support have been filed by the National Association of Broadcasters. The Lake Cedar Group has also filed a site study entitled "Denver DTV Site Investigations" (December 1999). The full text of these documents is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, S.W., Washington, D.C., 20554, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C., 20036, (202)857-3800. For additional information, contact Bruce Romano at (202) 418-2120.

NATURE OF PETITION:

Lake Cedar Group seeks to construct, at a current antenna farm, a new tower and transmitter building that would carry the digital antennas for five television stations and new antennas for several FM stations already operating from other towers at the site, and would ultimately replace four existing adjacent towers and associated transmitter buildings. The County has denied Lake Cedar Group's zoning application, and Lake Cedar Group has appealed the County Commissioners' decision to the local court. Petitioner contends that the County's adverse action is preempted by the Supremacy Clause because it unreasonably frustrates important federal policies and because it places Lake Cedar Group's member television licensees in a position in which compliance with both state and federal regulations is impossible.

FILED BY:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Ave., NW
Washington, DC 20037-3202

RECEIVED

MAY 19 2000

FCC MAIL ROOM

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

RE: DA 00-764
Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND
DECLARATORY RULING" to preempt Jefferson County Denial of Supertower

Dear Ms. Salas:

I observed over the course of many months in 1998 and 1999 the conscientious process of the Jefferson County Board of County Commissioners in review of an application by the Lake Cedar Group, LLC, to rezone land on Lookout Mountain to allow for the construction of an 854-foot telecommunications supertower and adjacent support building. There was an exhaustive and thorough review. The possibility that our community of more than 9,000 people would suffer the effects of even greater levels of electromagnetic radiation was cause for great anxiety. We were enormously relieved by the Commissioners' rejection of the application.

I am assured that alternative (and, most importantly, non-residential) sites to house the digital supertower do exist and would urge the Lake Cedar Group to explore those sites. Instead, I understand that they have petitioned the FCC to override the local authority in this matter. I ask that you respect the thoughtful decision-making of the Jefferson County Board of County Commissioners over what is a complex set of local zoning and other issues. To do otherwise would set a regrettable and dangerous precedent for our country.

Sincerely,



I, Constantine R. Johnson, certify that on this 6 day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by: Constantine R. Johnson

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall

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MAY 19 2000

GERMAINE KRESSER DIETSCH

FCC MAIL ROOM

WOODY CREEK, CO 81656-0128

970.923.1230 phone

970.923.2396 fax

dietsch@rof.net email

Office of the Secretary
Federal Communications Commission
445 Twelfth Street SW
Washington, DC 20554

Re FCC Reference DA 00-764

This statement is in support of the Petition filed by the Lake Cedar Group of Jefferson County, Colorado, requesting that the FCC issue an order preempting the decision of the Jefferson County Commissioners to deny rezoning of the Lookout Mountain broadcast site. The proposal by Lake Cedar was to replace the current four towers, which serve the greater metropolitan area of Denver, with one multi-use tower. Hard scientific data has shown to my satisfaction that the emissions from the one new tower would not exceed safe limits and in fact may be safer than emissions from the four existing towers. It is important that those who cannot afford cable or a satellite dish continue to receive free over the air television in the future, something that will not continue unless the new tower is built.

Unfortunately, an ill informed, alarmist fringe group was able to sway the County Commissioners into denying the application for rezoning to accommodate the new tower. The best interests of the much greater number of people in the extensive metropolitan Denver area who are served by public television would to preempt the Jefferson County Commissioners ruling.

Thank you for your attention.


Germaine Dietsch

5/2/00

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MAY 19 2000

FCC MAIL ROOM

Megalee R. Salas

Secretary, Federal Communications Commission

445 12th St. N.W.

Washington DC 20554

RE: DA 00-764

Dear Mrs Salas:

Regarding a petition for special relief & asking to preempt Jefferson County Colorado asking to deny permission to Lake Cedar groups construction of a Supertower.

I strongly urge you to rule against the Lake Cedar groups requests.

I feel the Jefferson County Commissioner provided more than adequate consideration to Lake Cedar groups requests to build this tower & found that it would be less harmful to the environment if located at an alternate site, which is readily available.

Yours Truly

WILLIAM E. SIEFERT
21658 MOUNTS FIELD DR.
GOLDEN COLO. 80401
William E. Siefert

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MAY 19 2000

FCC MAIL ROOM

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

RE: DA 00-764
Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND
DECLARATORY RULING" to preempt Jefferson County Denial of Supertower

Dear Ms. Salas:

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I am assured that alternative (and, most importantly, non-residential) sites to house the digital supertower do exist and would urge the Lake Cedar Group to explore those sites. Instead, I understand that they have petitioned the FCC to override the local authority in this matter. I ask that you respect the thoughtful decision-making of the Jefferson County Board of County Commissioners over what is a complex set of local zoning and other issues. To do otherwise would set a regrettable and dangerous precedent for our country.

Sincerely,

I, Dr. ROMMEL NOUFI, certify that on this 4th day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by: 

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall

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MAY 19 2000

FCC MAIL ROOM

Roger J. Mattson, Ph.D.

481 Crawford Street

Golden, CO 80401

(303)278-1406

Internet: rmattson@scientechn.com

May 2, 2000

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

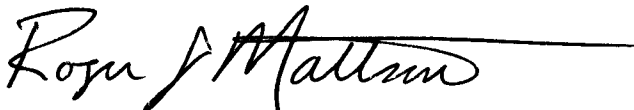
Re: DA 00-764 Lake Cedar Group Petition "PETITION FOR EXPEDITED
SPECIAL RELIEF AND DECLARATORY RULING" to Preempt Jefferson
County Denial of Supertower

Dear Ms. Salas:

I oppose Lake Cedar Group's petition because the tower they propose to erect will put the RF emissions on Lookout Mountain more than double the FCC standard for an Environmental Impact Statement. Such an EIS has not been prepared by either the applicant or the FCC, so that the said construction is, prima facie, in violation of FCC regulations.

Furthermore, the levels of RF radiation already present on Lookout Mountain as a result of FCC permitting are in excess of levels known to cause health effects, beyond the level requiring an EIS, and beyond what constitutes reasonably achievable protection of public health and safety.

Sincerely,



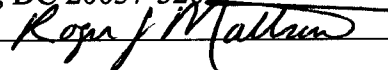
Roger J. Mattson, Ph.D.

Certificate of Mailing:

I, Roger J. Mattson, certify that on this 2nd of May, 2000, I mailed a copy of this filing to :

Edward W. Hummers, Jr, J. Steven Rich
Holland & Knight LLP
Suite 400

200 Pennsylvania Ave., NW
Washington, DC 20037-3202

Signed by: 

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554


RE: DA 00-764
Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND
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Dear Ms. Salas:

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I am assured that alternative (and, most importantly, non-residential) sites to house the digital supertower do exist and would urge the Lake Cedar Group to explore those sites. Instead, I understand that they have petitioned the FCC to override the local authority in this matter. I ask that you respect the thoughtful decision-making of the Jefferson County Board of County Commissioners over what is a complex set of local zoning and other issues. To do otherwise would set a regrettable and dangerous precedent for our country.

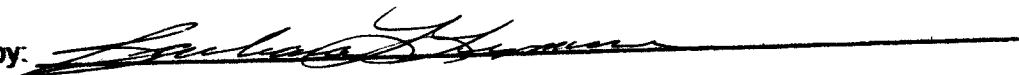
Sincerely,



I, Barbara Lyman, certify that on this 5th day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by:



cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

RE: DA 00-764


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Sincerely,


THREE CHARROS DR GOLDEN CO 80401

I, MARGARET M. PATTON, certify that on this 6th day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by: 

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

RE: DA 00-764

Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND
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Sincerely,

John D Fairchild
221 CIPARROS DR
GOLDEN CO 80401

I, JOHN D FAIRCHILD, certify that on this 6 day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by:

John D Fairchild

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

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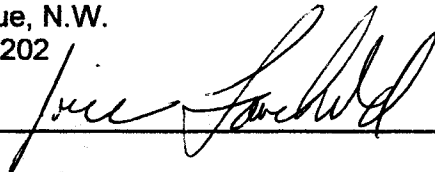
Sincerely,

Joice Fairchild
221 Charros Drive
Golden, CO 80401

I, Joice Fairchild, certify that on this 6 day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by: _____



cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall

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MAY 19 2000

FCC MAIL ROOM

Megalie R. Salas
Secretary, Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

RE: DA 00-764
Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND
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Dear Ms. Salas:

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Sincerely,

I, Tracie Castanon, certify that on this 8th day
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich
Holland & Knight LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

Signed by: [Signature] 352 Paradise Rd., Golden, CO 80401

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman
Diana DeGette; Congressman Mark Udall